



Construction Sector Transparency Initiative – Ethiopia (CoST – Ethiopia)

Assurance Report on Disclosed Project and Contract Information of Agulae – Shaigube – Berahile Design and Build Road Project

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Addis Ababa, Ethiopia**

EXECUTIVE SUMMARY

CoST is principally about achieving transparency and accountability for the cost, time and quality of public sector construction projects through the release of information /disclosing into the public domain. This report is prepared to factually assess, verify and analyze Agulae – Shaigube – Berahile DB Road project information for accuracy and to be easily understood by stakeholders finally to be disclosed to the public in the form of standard template that contains selected data named Material Project Information (MPI).

Agulae – Shaigube - Berahile DB road project includes asphalt concrete standard carriage way, bridges, culverts, retaining walls, pavement marking, and erecting traffic sign and has 74.92 km length. As the name implies, it begins from Agulae town that is 37 km away from Mekele along the main road connection to Wukro and ends at Berhale.

Pursuant to the urgency to provide standard road for transportation of the mine product from Dalol to the port of Djibouti by the end of the expected duration of two years for production as per the agreement between the MoME and the mine developers, ERA requested permission from PPA to proceed the procurement through single source (direct negotiation by inviting Defense Construction and Engineering Enterprise (DCEE). PPA, through its letter dated November 25, 2002 EFY declined to approve the request of single source procurement method rather recommended to go for restricted bidding by inviting some other qualified bidders.

Following PPA's decline to approve, Ministry of Works and Urban approved the same request through its letter dated December 05, 2002 EFY by referring Article 51.1 (f) of the Procurement and Property Administration Proclamation 649/2009. According to the Article, the approval by head of the public body is subjected to when the need is one of pressing emergency in which delay would create seriously problems and therefore injurious to the performance of that public body.

However, letter of invitation for Agula –Shaigubi - Berahile Design and Build Road Project was written on December 28, 2009; bid submission date was not specified. The contract was signed after 218 days (7.3 months) on August 3, 2010 since the contractor's invitation. The time elapsed for the procurement was enough to apply for open tendering as per the proclamation of the country; so the question comes why for single source bidder required?

TAC compared the bidder rates with other eight recently signed projects. The total contractor's offer is reduced from 1,203,860,707.08 to 969,916,753.17 ETB and the cost per unit km is reduced from 15,736,741.27 to 12,678,650.37 ETB which is appreciable.

DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC and Associate Engineers (AEC) complained rejection of their proposal due to their 2001 EFY tax clearance certificate was valid up to July 7, 2009 (Sene 30, 2002 EC); BY pointing out according to Ethiopian Revenue and Custom Authority Annual Taxes Payment and Clearances collection duration ranges up to Tikimt 30 EC (November 9) while the Trade License renewal duration ranges up Tahisas 30 (January 9) every year.

Dates between Hamle 1 to Tikmet 30 EC (from July 09 to November 9), as the case also applies for this project, ERA's request for tax clearance for the new EFY does not overlay with this Ethiopian Revenue and Custom Authority.

ERA has not accepted the consultants complaints; rather considered the complaint and gave final chance to submit a tax clearance certificate within three days that can be valid at proposal submission date which was October 20, 2009. Accordingly, Associate Engineer's (AEC) proposal rejected from financial evaluation due to the case.

But, it will be still a question for the dates at the beginning of Hamle (July) since no one can able to finalize to pay the tax and the clearance at this early stage of Ethiopian Fiscal Year?

The project is still ongoing. The time elapsed up to the end of December 2014 was 1552 Calendar days (nearly 4.5 years) or 142.64% of the original Contract time; extra 457 days elapsed. The Contract period was 1095 Cal days (3 years) including mobilization period. The percentage accomplished is 92.95%. A gap of -49.69% (142.64% - 92.95 %.) is encountered between the time elapsed and the achieved progress. The delays are justified and time extension granted to the Contractor.

The main concerns for lack of value for money are:-

- single source procurement/ unfair competition of procurement and
- delay of the accomplishment.

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List of Abbreviation

AC	Asphalt concrete
AP	Assurance Professional
CoST	Construction Sector Transparency
CDSCo	Construction Design Share Company
CAC	Contract Award Committee
C/Work	Civil work
DB	Design and Build
DG	Director General
E	East
E.C	Ethiopian calendar
EoI	Expression of Interest
EoT	Extension of time
ETB	Ethiopian birr
EP	
ERA	Ethiopian Road Authority
FDRE	Federal Democratic Republic of Ethiopia
FW	Form Work
GCC	General Condition of Contract
GOE	Government of Ethiopia
ICB	International competitive bidding
m.a.s.l	Meter above sea level
MCBC	
MoFED	Ministry of Finance and Economic Development
MoME	Ministry of Mine and Energy
MPI	Material Project Information
MWUD	Ministry of Works and Urban Development
N	North
NCB	National competitive bidding
NMSG_EC	National Multi-Stake Group Executive Committee
PE	Procuring Entity (ERA for this case)
PLC	Private Limited Company
PM	Post Meridian

PPA	Public Procuring Agency
QCBS	Quality Cost Based Selection
Re-bar	Reinforcement bar
RFP	Request for Proposal
RoW	Right of Way
RSDP	Road Sector Development Program
TAC	Tender Analysis Committee
VCT	Voluntary Counselling & Testing

1. INTRODUCTION

CoST is an international multi-stakeholder initiative designed to increase transparency and accountability of public sector organizations and the construction companies for their construction projects. CoST is principally about achieving transparency and accountability through the release of information into the public domain. The aim is to enhance the accountability of procuring bodies and construction companies for the cost, time and quality of public sector construction projects. It will do this by disclosing to the public the key project information at all stages of the construction project cycle. It is important that the information released through CoST shall be both accurate, and available in a form that can easily be understood by stakeholders. To achieve this, the disclosed information will be verified and analyzed for accuracy and factually assessed by experts (“Assurance Professional-AP”) appointed for this purpose to be easily understood by stakeholders.

This report is prepared for the assurance assignment, finally to be disclosed to the public in the form of standard template that contains selected data named Material Project Information (MPI).

2. BACKGROUND OF THE PROJECT TO BE DISCLOSED

2.1. *Project Initiation and Budget*

The Government of the Federal Democratic Republic of Ethiopia (FDRE) continued its commitment to give the road sectors the highest priority and is preparing more projects for funding by donors and from the national budget. Individual road projects are selected for inclusion in the RSDP on the basis of needs assessment and taking into account the level of traffic, road condition and access problem, potential natural resources to be developed, etc. The RSDP has been implemented over a period of fifteen years and in four separate phases, shown as follows:

- RSDP I – Period from July 1997 to June 2002 (5 years plan)
- RSDP II – Period from July 2002 to June 2007 (5 years plan)
- RSDP III – Period from July 2007 to June 2010 (3 years plan)
- RSDP IV – Period from July 2010 to June 2015 (5 years plan)

As we can see from the above phases, the road Agulae – Shaigube - Berahile Road lies within the 4th phase of the period.

The Dalol area is rich in natural resources of minerals. Despite the rich natural resources, the area has not been developed so far and was not accessible. In actual condition, the Dalol region was inaccessible and the mine developers were facing great problem of access to the site. With this constraint of access, the ministry of Mines and Energy signed a contract with Indian Mine developer for the exploitation of the potash deposit in the Dalol region. The Indian potash developer company had mobilized his machineries to the nearby Tigray region and it was hardly possible to move the machineries to the project site for installation and start production. Additional exploration companies are working in the region to develop the potash deposit and other natural resources of the region as it is found to be fundamental for development of the country.

In accordance with the above needs of the road, the FDRE, represented by Ethiopian Roads Authority, has allocated budget to finance payments for the Design and Build of Agulae – Shaigube - Berahile Road and awarded to a local contractor named Defense Construction Enterprise (DCE).

The fund is from the Federal Democratic Republic Government of Ethiopia. Budget is allocated for annual basis which is equal to the volume of work schedule to be executed for one budget year. Ethiopian budget year ranges from the month July 1st to June 30th EC every year according to the Ethiopian calendar. The budget is prepared and approved usually starting from the month May to June to the coming budget year. The PE through the Planning and Monitoring Department prepares the budget required to execute annual work schedule using the format and standard given by Ministry of Finance and Economy. The Planning and Programming Department revises and submits to higher officials of ERA for approval. After approved by the PE's higher officials, the Planning and Programming Department submits to the Ministry of Finance and Economy for review. The amount accepted by the Ministry of Finance is approved by Parliament. Then, it is secured to be the annual budget of the project. This enables the PE to adjust the budget according to the annual requirement and variation of the construction.

Table 1: Budget for the project Agulae – Shaigube - Berahile Road for the EFY 2007

□□□□ □□□ □□□ (Budget Identification No)	□□□□□□ □□ (Project Name)	□□□ □□□ (Expenditure Title)	□□□□ □□□ □□□ □% (Fiscal Year Plan in %)	□□□□□ □□□ □□□□□□ □□□ (Requested Budget by Source of Finance) x1000 ETB		
				□□□□□□□ (Government)	□□□ □□□ (Loan)	□□□ □□□□ (Donation)
273/05/02/00/052	Agulae - Berahile		25	297,500		
		6324 (Infrastructure construction)		292,000		
		4326 (Supervision)		3,000		
		6416 (Compensation)		2,500		

2.2. Project Description

Agulae – Shaigube - Berahile is about 69km (rough estimate during document preparation) and it begins from Agulae town that is 37 km away from Mekele along the main road connection Mekele and Wukro and goes south west direction pass Shaigube town and ends at Berahile town.

The project involves upgrading of the existing road having poor geometry to DS4 Asphalt Concrete standard. The work includes demolishing and removal of substandard structures such as fords and vented causeways if any, and construction of new culverts and Bridges if required.

In accordance with the urgent needs of the road project, the Government of the Federal Democratic Republic of Ethiopia (FDRE) represented by Ethiopian Roads Authority has allocated sufficient budget to finance payments for the design and construction works and supervision of the project. As a result, ERA entered an agreement on August 3, 2010 with Defense Construction Enterprise at a cost of ETB 969,916,753.17 to design and build the road in 1095cal Days. For the supervision of the project, ENG. ZEWDIE ESKINDER & Co. Plc. appointed as Employer’s Representative and the contract was signed on September 2, 2010 at a cost of ETB 10,020,927.50. The bid preparation, design and construction management was Sub-let to NET Consult at a cost of ETB 30,462,637.50 on March 17, 2010.

The major task of the project is designing and construction of new where re-alignments required and upgrading of the existing access road to a DS4 standard asphalt concrete road. Most of the

structures in the project route are in good condition and the work comprising of repairing the existing drainage structures, demolishing and removal of substandard structures such as fords and vented causeways if any, and construction of new culverts and bridges if required.

The works involve; designing the roadway, providing any necessary additional structures and upgrading the existing as well as constructing new alignment section of the route to DS4 Asphalt Concrete Standard. It also includes constructing any additional bridges and culverts or upgrading some structures to meet the required standard, clearing and maintaining the existing structures and arranging their flow direction, providing wing wall for the existing bridges, constructing paved roadways, constructing retaining walls, pavement markings and erecting traffic signs and other necessary works to meet the Employer's requirement.

2.3. Location

The road Agulae – Shaigube - Berahile is located in the northern part of Ethiopian in Tigray and Afar regional states. It connects Berahile with the main highway of Mekele – Wukro Road at Agulae. It begins/starts at Agulae town which is 817 Km from Addis Ababa and 37 km away from Mekele along the main road connecting Mekele and Wukro.

Agulae – Shaigube – Berahile routes goes in the south west direction passing Shaigube town and ends at Berahile town. The existing access road is about 74.92 km (revised) and passes through Berki, Tsabat, Dessa, Lugda, Korha, Harta, Shaigube, Ada and Tira Bora Villages at 8, 13, 19, 26, 34, 43, 52, 69 and 73km respectively. Total length of the project Road (Contract 2 Lot 1) is estimated to be 74.92km. The cross sections are designed with 7m carriageway width in rural sections and shoulders of 1.5 & 0.5Mt at flat rolling and mountainous escarpment terrain respectively. In addition, it has 3.5 m parking lane and 2.5 m footpath on each side of the road in Town section.

The altitude of the project route ranges from 670m – 2005m above mean sea level; the lowest elevation begins in Berahile. Generally, the elevation rises from Berahile to 22km where it reaches an elevation of 1200 meters amsl. From 22km onwards, the mountainous section is encountered and the maximum elevation is reached at around 46km from Berahile. The road joins the Mekele Wukro trunk road at an elevation of 2005m amsl.

Location Map of the Project



2.4. Terrain

Agulae - Shaigube section of the road is mountainous and escarpment terrain with steep gradients for about 14km. After 30km from Agulae and the remaining section, is in the range of flat to rolling terrain. The road was constructed by Tigray Rural Road Authority with some geometry deficiencies such as short crests at rolling road ways which don't provide sufficient sight distance and sharp (switch back) curves.

Shaigube - Berahile section of the road traverses a flat terrain and it crosses three big rivers. But there is no any constructed drainage structure on thus section of the road. The road is highly damaged and it is hardly possible to use this section during rain season.

2.5. Items of work

The project involves upgrading of the existing road having poor geometry to DS4 Asphalt Concrete standard. The work includes demolishing and removal of substandard structures such as Fords and vented causeways if any, and construction of new culverts and Bridges if required.

The works of this project comprises Design and Construction of new road and upgrading suitable part of the existing access to main access road classification and DS4 Asphalt Concrete standard complete with traffic control devices and construction of drainage structures.

The project will comprise:

- Designing the roadway and any necessary structures
- Upgrading the existing as well as constructing new alignment section of the route to DS4, Asphalt Concrete standard as per the final contract agreement
- Constructing Bridges and culverts or upgrading some structures to meet the required standard
- Constructing Paved Roadways
- Constructing Retaining Walls
- Pavement Markings and Erecting Traffic Signs
- And other necessary works to meet the employer's requirement

Table 2: Work Items

BILL ITEM	BILL DESCRIPTION	% of Wt	contract Amount
1	Survey Investigation and design	4.00	32,136,234.89
2	Project Facilities	8.00	64,272,469.79
3	Detour and traffic management	1.00	8,034,058.72
4	Site Clearance and Earth work	30.00	241,021,761.70
5	Sub-base	10.00	80,340,587.23
6	Road base and bituminous Surface	30.00	241,021,761.70
7	Bridge, Culvert, Drainage & Protection works	16.00	128,544,939.57
8	Road Furniture and Environmental works	1.00	8,034,058.72
	SUB-Total	100	803,405,872.32
	Provisional Sum		40,000,000.00
	VAT 15%		126,510,880.85
	Total		969,916,753.17

3. OBJECTIVE AND METHODOLOGY OF ASSURANCE ASSIGNMENT

3.1. Objectives of Assurance Processes

The role of the Assurance Professional is to play an interpretative role in helping to make raw data disclosures understandable to a wider range of stakeholders.

The assurance process will have the following core objectives:

- (a) To assist the Procuring Entities (PEs) in the collection information from the PEs themselves and, where necessary, professionals and contractors on selected projects in order to ensure the publication of the relevant Material Project Information (MPI) as outlined in the Disclosure Standards of CoST-Ethiopia.
- (b) To ensure the publication of the relevant Material Project Information (MPI) as outlined in a standard template,
- (c) To verify the accuracy and completeness of MPI disclosure and produce reports as required by the NMSG-EC.
- (d) To analyse the information obtained in order enable the public to make informed judgments about the cost, time of delivery, and quality of the built infrastructure.
- (e) To produce reports that are clearly intelligible to the non-specialist, highlighting the main findings and causes of concern the analysed information reveals.

3.2. Assurance Assignment

This assurance assignment is the second one which is commenced after the completion of the first one which was carried starting from July to October, 2014. After signing the contract, data and document collection commenced from the PE (Ethiopian Roads Authority), the Consultant (Eng. Zewdie Eskinder & Co. Plc. Consulting Engineers) and the Contractor (Defence Construction Enterprise (DCE)). This time, I am assigned for one Road Construction project named *Agulae – Shaigube– Berahile* Design and Built Road projects.

Data and information collection and compiling continued according to the formats and tools given by the coordinating office. Documentation was then carried out to record, assess and report findings and recommendations obtained from the study.

Further discussions made with the PE project Coordinator and project staffs to get relevant explanations, verify the accuracy and completeness of information, and to get further understanding of how the project was managed. It is a challenge to get pre-feasibility and feasibility studies, contractor's and consultant's bid document and data.

4. DATA COLLECTION AND VERIFICATION

The following documents are collected from the PE, Ethiopian Roads Authority (ERA) and verified from PE staffs working for the project. Also by cross checking the project document with one another, it is checked for the completeness, accuracy and to be latest version of the data.

Table 3: Collected documents

S. No	Document Type	Remark
1	Feasibility Study	Not found yet
2	Procurement plan	Not found yet
3	Expression of Interest evaluation	Not found yet
4	Works Bid Evaluation Report	Found immediately from EP Directorate
5	Works Post Qualification Evaluation Report	Found immediately from EP Directorate
6	Consultancy Services Final Revised Technical Evaluation Report	Found immediately from EP Directorate
7	Contract Document	Found immediately from DB Directorate
8	Contract Document for Consultancy Services	Found immediately from DB Directorate
9	Progress Report for the latest month	Found immediately
10	Concept level report	Not found yet
11	Route selection report	Found with slight challenge from DB Directorate
12	EIA, HIV and RAP	Found immediately from DB Directorate
13	Final Drainage design	Found immediately from DB Directorate
14	Final structural design	Found immediately from DB Directorate
15	Final Geometric design	Found immediately from DB Directorate
16	Latest Interim Payment Certificate	Found immediately from DB Directorate
17	Extension of Time No. 1	Found immediately from DB Directorate
18	Extension of Time No. 2 & 3	Found immediately from DB Directorate
19	Supplementary agreement with the Employer Representative No. 1	Found immediately from DB Directorate
20	Supplementary agreement with the Employer Representative No. 2	Found immediately from DB Directorate
21	Supplementary agreement with the Employer Representative No. 3	Found immediately from DB Directorate
22		

5. SUMMARY OF INFORMATION TO BE DISCLOSED

5.1. Contracts Included in the Disclosure

Two contracts are included in this disclosure. These are:-

- Design and build contract of Agulae –Shaigube– Berahile Road project, and
- Consultancy Services Construction Supervision & Contract Administration

5.2. Information Disclosed by Project Phase

5.2.1. Project Initiation and Feasibility Level

The project was identified as a critical and urgent since the export of potash and other natural resources of the Dallol region found to be fundamental for development of the country. To facilitate the mobilization of the equipments of the mine developers in the Dalol region and transportation of the product to Djibouti port, a need for provision of standard road became mandatory.

Based on the agreement between Ministry of Mines and Energy and the mine developer production was expected from potash mine developer after two years and there was a need of standard road for transportation of the product to the port of Djibouti by the end of the expected two years for production.

In actual condition, the target was inaccessible and the mine developers were facing great problem of access to the site. Besides, the Indian potash developer company had mobilized his machineries to the nearby Tigray region and it was hardly possible to move the machineries to the project for installation and start production.

In accordance with the above needs of the road project, the FDRE, represented by Ethiopian Roads Authority, has allocated sufficient budget to finance payments for the construction of road project Agula- Shaigubi- Berahile Design and Build Road Project.

5.2.2. Procurement of Contractor

5.2.2.1. Procurement of Contractor for Access Road

To respond for the urgent need of the road, ERA gave priority for the construction of Shaigube - Berahile - Dalol Access Road, at least to facilitate mobilization of the mine developer machineries to the project site for installation and start of production as this section was totally inaccessible. To facilitate mobilization of equipments of the mine developer in the Dalol region as its equipments were already mobilized to the nearby area and the need for provision of standard road for

transportation of the product to the port of Djibouti by the end of the expected duration of two years for production, ERA proposed the following contract delivery strategy and selection method of Contractors to bid for the project.

- i. Propose Design and Build contract strategy to minimize the time spent for design,
- ii. The selection of contractors to be done through direct procurement as per Article 27(1) (g) of the Determining Procedures of Public Procurement and establishing its Supervisory Agency Proclamation No.430/2005 to minimize the time spent for procurement process

Based on Article 27(1) (g), considering special nature of the project, ERA proposed Defense Construction and Engineering Enterprise (DCEE) for Shaigube – Berhaile - Dalol Access Road Project.

The request by ERA to award the contracts to the above firm through direct negotiation was approved by Public Procurement Agency (PPA) and a contract has been signed with DCEE for the urgent need of access road of Shagube – Berahile - Dalol.

5.2.2.2. Procurement of Contractor for the Standard Road

Following the access road, ERA has requested PPA for construction of the main standard road of Agula – Shaigubi - Berahile to proceed through direct negotiation by inviting Defense Construction and Engineering Enterprise (DCEE) pursuant to the urgency of provision of standard road for transportation of the mine product to the port of Djibouti by the end of the expected duration of two years for production as per the agreement between Ministry of Mine and Energy and the mine developer.

PPA, through its letter dated November 25, 2002 EFY declined to approve the request rather recommended to go for restricted bidding by inviting some qualified bidders.

Following PPA's response, ERA has requested Ministry of Works and Urban Development through its letter dated December 05, 2002 EFY for construction of the road to go for direct negotiation by inviting Defense Construction and Engineering Enterprise (DCEE) pursuant to the urgency by referring to Article 51(f) of the Ethiopian Federal Government Procurement and Property Administration Proclamation No. 649/2009.

Ministry of Works and Urban Development (MWUD) , through its letter dated December 05, 2002 EFY has agreed to invite Defense Construction and Engineering Enterprise for the direct negotiation for the construction of Agula-Shaigubi-Berahile Road Project considering the urgent need of the project and ERA accordingly invited DCEE to submit its offer.

Considering MWUD's approval, ERA through its letter dated December 28, 2009 has invited Defense Construction and Engineering Enterprise to submit its offer and proposal for Agula – Shaigubi - Berahile Road Project to award the contract through direct negotiation.

Bid submission date was not specified on the invitation letter; however, the contractor submitted its offer after 120 days on 8 / 08 / 2002 EC.

TAC made a brief assessment of the evaluation. TAC has compared the given rates with average rates of other projects, to check its reasonableness. Accordingly, TAC compared the bidder rates with Eight recently signed projects (three in 2010, three in 2009 and two 2008). Name of the projects are Mojo – Ejeri (Contract 3: Ginderber Gobensa), Endesselasie – Dansha Contract 2, Arbaminch – Sawla1 Contract 1, Wukro Adigrat – Zalabensa, Assossa – Kumruk, Adura Akobo & Adura Burbe, Endassilassie-Dansha contract 1 and Endassilassie-Dansha contract 3.

The comparison has been done with the lowest bidders' offer of the selected projects by calculating an average of the least bidders' offer. TAC assumed a 10% escalation on the average of lowest bidders offer (factored) to account for the following conditions:

- Environment condition of the project area,
- Less working hours on some section of the project area,
- Escalation of the project cost as the selected projects for cost comparison were signed in 2009 and early 2010, and
- Less availability of man power to work in the area

Even if the average of lowest bidder offer of the selected projects has been increased by 10%, the bidder's offer was on the higher side on some items.

Items which are more than 120% of the average cost considered for comparison are shown in the table below.

Table 4□ some higher rates of the DCEE

Bill Item No.	Description	Unit	Quantity	DCEE		Factored Average of the reference projects (10%)	% of DCEE by the factored average
				Rate	Amount (Birr)		
14.0 4(b)	Maintenance & Service for Office & Laboratories	month	30	175,268.00	5,258,042.71	53,772.31	326%
14.09	Building, House type, Complete, as specified, including fixtures and equipment						
	b) Type B housing	No	8	999,600.00	7,996,800.00	682,087.37	147%
14.13	Service for residential accommodation	month	30	262,902.00	7,887,060.00	78,026.67	337%
15.01	Construction, Repair and maintenance of temporary diversions and accommodating traffic	Km	76.5	528,253.34	40,411,380.51	191,427.5	276%
201p1	Clearing and grubbing	ha	171.94	26,542.62	4,563,758.16	17,926.16	148%
42.01a(i)	Cut and borrow to fill, compaction to 95% AASHTO T-180	m ³	569,844.3 1	86.75	95.43	62.16	140%
42.03(b)	Intermediate excavation	m ³	596,649.9 0	84.51	92.96	37.58	122%
52.01(b)l	Crushed aggregate base course compacted to 98% of modified AASHTO density	m ³	133,900.5 3	433.06	57,986,820.37	307.40	141%
61.01	Prime coat						
(a)	MC-30 cutback bitumen	m ²	808,500.0 0	29.88	24,154,465.17	21.78	137%
84.01	Cast in situ concrete						
(a)	(a) Class C-30 in all superstructure parts, abutment & wing wall foundations and walk ways	m ³	5,323.26	4,808.90	25,599,018.30	3,342.53	144%

TAC noted that rates of most of the items, which covers higher portion of the project cost is higher than 15% of the average rates taken for comparison; one of the reasons may be the bidder has considered 40% overhead and profit margin which should have been 20% to 30% of the direct cost according to the ERA's experience in most projects.

Table 5: Items which covers higher portion of the project cost

Bill Item No.	Item Description	Unit	Quantity	DCEE		Factored Average of the reference projects (10%)	% of DCEE by the factored average
				Rate	Amount (Birr)		
34.03(b)	Cement mortared stone walls, Class 'B'	m ³	12804	988.65	12,659,128.73	1,159.45	85%
41.03(b)	Road bed preparation compaction to 93% of modified AASHTO density	m ²	162000.00	27.18	4,402,598.94	55.62	49%
42.01	Cut and borrow to fill						
42.01a(ii)	Cut and borrow to fill, compaction to 95% AASHTO-180	m ³	569844.31	86.75	49,435,381.09	62.16	140
42.01(c)	Rock –(hard) to fill	m ³	95908.33	214.12	20,535,465.96	205.26	104%
42.03	Cut to spoil material obtained from						
42.03(a)	Common (normal) excavation	m ³	406790.03	45.66	18,574,790.09	37.65	121%
42.03(b)	Intermediate excavation	m ³	596649.90	84.51	50,423,930.75	61.67	137%
42.03(c)	Rock –(hard) to excavation	m ³	1177618.05	169.25	199,309,289.16	141.11	120%
5400	Granular courses						
51.01(a)i	Gravel sub-base layer, 97%MDD, AASHTO T-180	m ³	241,113.59	187.55	47,632,954.71	174.63	113%
51.01(b)i	Crushed aggregate base course compacted to 98% of modified AASHTO density	m ³	133,900.53	433.06	57,986,820.37	307.40	141%
(a)	MC-30 cutback bitumen	m ²	808,500.00	29.88	24,154,465.17	21.78	137%
64.00	Bituminous road base and surfacing						
62.02	50mm asphalted surfacing with (penetration grade 60/70 bitumen)						
(a)	Continues grading (medium)	m ²	554,800.00	187.09	103,797,563.03	165.03	113%
84.01	Cast in situ concrete						
(a)	(a) Class C-30 in all superstructure parts, abutment & wing wall foundations and walkways	m ³	5,323.26	4,808.90	25,599,018.30	3,342.53	144%
89.01	Stone masonry walls						
(a)	Cement-mortared stone masonry walls (Class B)	m ³	29,909.35	1,181.46	35,336,711.34	1,349.61	88%

Finally, after thorough negotiation, the bidder offer becomes as follows.

Table 6: Original offer and after negotiation

Description	Original offer of the bidder (before negotiation)	Offer After Negotiation
Subtotal of bills items (1000 to 8000(A))	940,552,917.76	772,505,646.46
Design cost	5 % = 47,027,645.89	3 % = 23,175,169.39
1% for Environmental and road furniture	9,405,529.19	7,725,056.46
SUB-TOTAL (B)	996,986,092.82	803,405,872.32
5% Allowance for unforeseen events (C)	49,849,304.64	0
Sum (B+C) =D	1,046,835,397.46	803,405,872.32
VAT (15% of D) = E	157,025,309.62	120,510,880.85
Grand Total (D+E) = F	1,203,860,707.08	923,916,753.17
Cost per Km (76.5km)	15,736,741.27	12,077,343.18
Provisional Sum for reinforced concrete retaining wall including Structural excavation, back fill and reinforcement to mitigate sliding on the cut side		40,000,000.00
VAT (15%)		6,000,000.00
Total provisional sum = G		46,000,000.00
Total contract price= F+G		969,916,753.17
Total Cost per Km (76.5km)		12,678,650.37

Ethiopian Roads Authority wrote letter of acceptance on July 23, 2010 with total contract price of ETB 969,916,753.17 (Nine hundred sixty-nine million, nine hundred sixteen thousands, seven hundred fifty-three and seventeen cents only Ethiopian Birr) including specified provisional sums and 15% VAT.

Total cost per unit km is ETB **12,678,650.37** (twelve million six hundred seventy eight thousand six hundred fifty and 37/100 cents).

5.2.3. Procurement of Consulting Firm

Expression of Interest (EoI) advertisement for short listing of capable consulting firms was published on the Ethiopian Herald newspaper on July 11 and 12, 2009. The deadline for submission was after 16 days on 27th of July 2009. After the approval of the short-listed firms on September 02, 2009 by DG of ERA, six firms invited through ERA's letter dated September 09, 2009 to submit their Technical and Financial proposal on or before October 08, 2009, which was also extended to October 20, 2009.

Table 7: List of firms who were invited to submit proposal

Item No.	Name of Consulting Firm	Country of the firm
1	Associate Engineers (AEC)	Ethiopian
2	RENARDET Consulting Engineers in Joint Venture with United Consulting PLC Consulting Engineers (UNICONE)	Switzerland / Ethiopian
3	Transport Construction Design Share Company (TCDSCo)	Ethiopian
4	Eng. Zewdie Eskinder & Co. PLC	Ethiopian
5	DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC	Ethiopian / Ethiopian
6	International Consultants and Technical Ethiopian PLC in Joint Venture with Omega Consulting engineers PLC	Ethiopian / Ethiopian

Table 8: The following four (4) firms submitted their proposals

Item No.	Name of Consulting Firm	Country of the firm
1	Associate Engineers (AEC)	Ethiopian
2	Transport Construction Design Share Company (TCDSCo)	Ethiopian
3	Eng. Zewdie Eskinder & Co. PLC	Ethiopian
4	DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC	Ethiopian / Ethiopian

RENARDET Consulting Engineers had submitted a decline letter not to submit a proposal mentioning that the subject of the RFP is different than the one of the expression of interest and possibility not to express part of the price proposal in foreign currency.

The technical proposals had been opened on October 20, 2009 at 3:00 pm and subsequently evaluation was done by TAC.

The final technical proposals evaluation report was endorsed by the Contract Award Committee (CAC) and approved by the Director General of ERA on June 02, 2010.

Table 9: Technical proposals evaluation result

Item No.	Name of Consulting Firm	Technical Proposal Score (100)	Remark
1	Eng. Zewdie Eskinder & Co. PLC	90.5	Responsive
2	DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC	85.3	Responsive
3	Transport Construction Design Share Company (TCDSCo)	84.8	Responsive
4	Associate Engineers (AEC)	Rejected during technical proposal evaluation as its tax clearance is not valid for tendering period	

Following the approval of the technical proposals evaluation report by the Director General, the technically qualified firms were notified the scheduled date and time for opening of the financial proposals as per the Instruction to Bidders Sub-clause 27.1 of the RFP. Accordingly, on 15th of June 2010 at 2:30 p. m, the financial proposals of the three technically responsive consulting firms have been opened at the ERA Conference Room, in the presence of ERA’s Contract Award Committee Members (CAC) and representatives of the technically responsive consulting firms as per the Instruction to Bidders sub-clause 27.2 of the RFP.

Table 10: Consultants’ Financial Proposal Correction

Firm’s Name	Read out prices	Adjustment	Corrected Amount	Financial Score
	(ETH)	(ETH)	(ETH)	(ETH)
Eng. Zewdie Eskinder & Co. PLC	10,000,227.50	(+) 20,700.00	10,020,927.50	86.34
DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC	10,159,100.00	none	10,159,100.00	85.17
Transport Construction Design Share Company (TCDS Co)	8,483,873.90	(+) 168,567.22	8,652,441.12	100.0

Table 11: Aggregate Scores of Consultants

Name of Consulting Firm	Technical Score Out of 80	Financial Score out of 20	Total Score Out of 100	Rank
Eng. Zewdie Eskinder & Co. PLC	72.40	17.27	89.7	1
DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC	68.24	17.03	85.3	3
Transport Construction Design Share Company (TCDS Co)	67.84	20.00	87.8	2

5.2.4. Contract Agreement

Ethiopian Roads Authority (ERA) wrote letter of acceptance to DCEE for the contractor bid on July 23, 2010 for the design, execution and completion of such works and the remedying of any defects therein with total contract price of ETB 969,916,753.17 (Nine hundred sixty nine million, nine hundred sixteen thousands, seven hundred fifty three and 17/100 cents only Ethiopian Birr) (including VAT) assuming 74.92 (revised) km project length.

The contract was signed on August 3, 2010. The contractor’s invitation date was on 28/12/2009. The Contract period was 1095 Cal days including mobilization period.

The Contractor received notice to commence on September 30, 2010; which is the effective commencement date of the project.

Ethiopian Roads Authority (ERA) also signed a contract Agreement with Eng. Zewdie Eskinder & Co. Plc. Consulting Engineers on 2nd September, 2010 for Construction Supervision Services of the project. The contract amount for the Consultancy service is ETB 10,020,927.50 (Ten million Twenty Thousands Nine Hundred Twenty Seven and Fifty cents only). The contract price is inclusive of local taxes and 15% VAT.

5.2.5. Progress of the Project

The project is still ongoing. As per the Employer's representative (Consultant) progress report, the percentage accomplished up to the end of December 2014 is 92.95%; however, 142.64% of the original contract period elapsed (i.e. extra 457 days elapsed).

Total time elapsed up to the end of December 2014 is 1552 Calendar days or 142.64% of the original Contract time elapsed. The actual work execution is 92.95%. A gap of -49.69% encountered between the time elapsed and the achieved progress. The Contractor re-scheduled to complete the work on May 15, 2015, but the actual accomplishment is still 92.95% which shows slippage of -4.1% according to his secondary master work program.

The Employer's representative has certified the contractor's monthly statements.

Payment Certificate Data - Interim Payment Certificate No -46

PROJECT: -	Agula – Shaigube - Berahile Design & Build Road Project
EMPLOYER: -	Ethiopian Roads Authority
EMPLOYER'S REPRESENTATIVE: -	Engineer Zewdie Eskinder
CONTRACTOR: -	Defence Construction Enterprise
Valuation Date:-Nov.,	26/2014--Dec., 25/2014
Contract Amount (with VAT):-	923,916,753.17 Birr
Provisional Sum: -	46,000,000.00 Birr
Original Contract Period: -	1,095.00 Calendar days
Commencement Date: -	29/Sep/10
Original Completion Date: -	28/Sep/13
Time Elapsed: -	141.37%
%age of Executed Work:	91.96%

Total Amount on This Certificate (after balancing Material on site, VAT, Retention VAT) is 1,131,594,917.90 ETB.

Table 12: Payment effected

BILL ITEM	BILL DESCRIPTION	CONTRACT AMOUNT	Contract %	TOTAL TODATE		REMAINING		THIS MONTH
		ETB		AMOUNT ETB	%	AMOUNT ETB	%	
01	Survey, Investigation and Design	32,136,234.89	4.00	32,136,234.89	100.00	0.00	0.00	-
02	Project Facilities	64,272,469.79	8.00	59,439,537.41	92.48	4,832,932.37	7.52	334,252.19
03	Detour and Traffic Management	8,034,058.72	1.00	8,034,058.72	100.00	0.00	0.00	-
04	Site Clearance and Earth Work	241,021,761.70	30.00	235,783,955.95	97.83	5,237,805.75	2.17	821,109.68
05	Sub-Base	80,340,587.23	10.00	73,915,056.02	92.00	6,425,531.22	8.00	426,795.97
06	Road Base and Bituminous Surface	241,021,761.70	30.00	218,579,585.91	90.69	22,442,175.78	9.31	1,347,946.05
07	Bridge, Culvert and Drainage	128,544,939.57	16.00	108,147,341.69	84.13	20,397,597.88	15.87	9,872,572.30
08	Road Furniture and Environmental Works	8,034,058.72	1.00	2,745,220.28	34.17	5,288,838.44	65.83	0
	Sub Total	803,405,872.32		738,780,990.88	91.96	64,624,881.44	8.04	12,802,676.1
	Price Adjustment			278,350,000.43				6,002,394.67
	TOTAL AMOUNT ON THIS CERTIFICATE after balancing Material on site, VAT, Retention VAT			1,131,594,917.9				14,131,538.6

5.2.6. Extension of Time and Variation

5.2.6.1. Summary of Contractor's Extension of Time Claim No. 1

The Contractor, in his letter Ref No 03-6/11/3759/12 dated November 29, 2012 submitted time extension claim No. 1, which mainly focuses on the approval of the geometric design on the escarpment and mountainous sections of the road at station 33+000 to 48+000 and 48+060-55+780, the contractor collectively requested a total of 217 calendar days pursuant to 8.3 of the General Condition of the contract.

The Employer's Representative reviewed the claim and forwarded his determination to the client. Finally, 99 calendar days were granted.

The following table summarizes the Extension of Time requested by the Contractor, the determination made by the Employer’s Representative and the Extension of Time in which the Employer deemed the Contractor shall be entitled pertinent to the Employers assessment.

Table 13: Summary of the Extension of Time No. 1

Head of Claim	Contractor’s EoT request (Cal. Days)	Emp. Rep. determination (Cal. Days)	Employer’s Assessment (Cal. Days)	Remark
Original Completion date	September 30 th 2013			
Delay in approval of <u>departure from the standard</u> for the road section from km 48 + 060 to km 55 + 780	217	102	99	
Total	217 Cal. Days)	102 Cal. Days)	99 Cal. Days)	

According to the Employer’s assessment, the Contractor Entitled for 99 Calendar days of Extension of Time pursuant to Sub-Clause 8.3 of the GCC, which shifts the completion date of the project to be 6th of January 2014. The contractor advised not to claim any cost as a consequence of the granted EoT.

5.2.6.2. Summary of Contractor’s Extension of Time Claim No. 2 & 3

The contractor also presented his claim no. 2 through his letter Ref. No Mh6-19/H9/2747/13 dated 27/8/2013 towards delay in approval of Escarpment section Alignment (30+000 to 33+000) in relation to Desa Forest. The employer’s representative has revised the contents of the claim and requested for clarification on the issues mentioned.

The contractor’s time Extension claim No 3 is reviewed by the Employer’s Representative and forwarded to the client. Finally, 138 calendar days were granted. For the change of MCBC to bridges and ROW is treated by claim No.4.

The following table summarizes the Extension of Time requested by the Contractor, the determination made by the Employer’s Representative and the Extension of Time in which the Employer deemed the Contractor shall be entitled pertinent to Employer’s assessment.

Table 14: Summary of the Extension of Time No. 3

Causes of Claim	Contractor's EoT request (Cal. Days)	ER's Rep. determination (Cal. Days)	Employer's determination (Cal. Days)
Tender time to select consultant by the Contractor who can do the Geotechnical investigation	90	90	90
Time for Geotechnical investigation	90	90	90
Time for the bridge construction	293	63	123
Previously granted EoT	-99	-99	-99
The time available to which the working drawing for the construction of the bridges are approved (April 25, 2013) & the date of the original Contract completion date September 30, 2013.	-65		-66
Total	309	144	138

Accordingly, the Employers' assessment granted 138 Calendar days that shifts the original completion date of the project to 24th of May 2014.

5.2.6.3. Summary of the Additional Extension of Time Claim No.4

The contractor claimed EOT No. 4, which is reconsideration of the previous three claims (1, 2, and 3). The Contractor's reconsideration request of the Extension of Time Claims No. 1, 2 & 3 in relation to delay in approval of departure from the standard for the road section from km 48 + 060 to km 55 + 780, delay in approval of alignment in escarpment section (km 30 + 000 to km 33 + 000), variation due to bridge construction and delay in removal of Right of Way obstructions.

Table 15: Summary of the Extension of Time No. 3

Causes of Claim	Contractor's EoT request (Cal. Days)	ER's Rep. determination (Cal. Days)	Employer's determination (Cal. Days)
delay in approval of departure from the standard for the road section from km 48 + 060 to km 55 + 780	115	115	115
delay in approval of alignment in escarpment section (km 30 + 000 to km 33 + 000)	285	0	0
variation due to bridge construction	285	0	0
variation due to bridge construction	310	165	144
Three months of rainy season		92	92
Total		372	351

As a result of this 351 Calendar days EoT, the original completion data of the project has been shifted to May 10, 2015.

5.2.7. Supplementary Agreements with the Consultant

The original contract for the Construction Supervision Service of the Abala – Shaigube – Berahile – Dalol Design Build Road Project was signed by the two parties client ERA and the Consultant Eng. Zewdie Eskinder & Co. PLC on 2nd of September 2010 for thirty (30) months of period with the contract amount of ETB 10,020,927.50 (Ten million Twenty Thousands Nine Hundred Twenty Seven and Fifty cents only) including 15% VAT.

5.2.7.1. Supplementary Agreement No. 1

This supplementary agreement was made on the 4th day of September 2013 between the client ERA and the Consultant Eng. Zewdie Eskinder & Co. PLC to extend the contract time for additional six months since the duration of the works contract extended to six month which makes the total contract duration 36 months + 1 year defect liability period.

The original completion date of the Works Contract was amended to 36 months which made the completion date on September 30, 2013. However, the duration for the service contract was 30 months which made the original completion date of the contract to be on March 30, 2013. As a result, amendment was made on the duration of the Service Contract through this Supplementary Agreement No. 1 so as to coincide the constancy duration with the works contract. By this supplementary agreement, the period of the consultancy service was amended to be Thirty Six (36) months plus one year defect liability period.

The remaining unutilised amount from the original consultancy contract which amounts ETB 2,280,373.45 (ETB Two Million Two Hundred Eight Thousand Three Hundred Seventy Three and 45/100 only) including VAT was used for this additional six months period payment.

5.2.7.2. Supplementary Agreement No. 2

This supplementary agreement was made on the 21st day of July 2014 between the client ERA and the Consultant Eng. Zewdie Eskinder & Co. PLC.

The original completion date of the works contract was set to be on September 29, 2013 and one year defect liability period. However, Extension of time (EoT-1 and EoT-2) was granted to the contractor upon which the contract period of the works contract was extended up to July 24, 2014 plus one year defect liability period.

Now, the consultancy service contract duration is amended with total contract duration of 48 (Forty eight) months which makes the completion of the service contract to be September 30, 2014 with additional amount of ETB 2,439,835.85 (ETB Two million Four Hundred Thirty Nine Thousands Eight Hundred Thirty Five and 85/100 only) including VAT.

Thus, the original contract and the supplementary agreement No. 1 are amended as follows:

- The period of the expiration of the service contract is forty eight (48) months + one year defect liability period of the works contract.
- The revised total contract price to be paid by the client will be ETB 12,460,763.35 (ETB Twelve Million Four Hundred Sixty Thousands Seven Hundred Sixty Three and 35/100 only) including 15% VAT.

5.2.7.3. Supplementary Agreement No. 3

The duration of the service contract is further extended by another twelve (12) months until September 30, 2015 plus one year defect liability period with additional amount of ETB 2,314,231.13 (ETB Two Million Three Hundred Fourteen Thousands Two Hundred Thirty One and 13/100 only) including VAT.

Thus, the original contract and the supplementary agreement No. 1, 2 and 3 are amended as follows:

- The period of the expiration of the service contract is sixty (60) months + one year defect liability period of the works contract.
- The revised total contract price shall be ETB 14,774,994.48 (ETB Fourteen Million Seven Hundred Seventy Four Thousand Nine Hundred Ninety Four and 35/100 only) including 15% VAT.

5.2.8. Environmental and Social Issues

The following activities are reported by the Employer's representative up to the end of December 30, 2015.

Table 16: Social activities

No	List of Activities	Achievement	Remarks
1	Campaign of awareness creation, sensitisation, behavioural change or mass education	125	Number of people who got awareness or mass education on HIV/AIDS, environment & road safety
2	VCT service	20	Number of people who were referred and got Voluntary counselling & testing
3	Nutritional support for people living with HIV	5	Number of HIV positive people who got 200 birr or more per month for nutritional support
4	Treatment support	5	Number of HIV positive people who get treatment for opportunistic infections and number of people who get treatment for STDs
5	Condom distribution (in pies)	2448	Number of condom distributed for construction workers, community members, and commercial sex workers
6	Number of condom outlets	5	Number of places where condom is made available on

			boxes or containers for free access
7	IEC materials distribution Pamphlets, leaflets, posters	500	Number of pamphlets, leaflets, posters, and Tee-shirts prepared in local languages & distributed in different occasions
8	World AIDS Day celebration	125	Number of people participate on December 1 world AIDS Day celebration
9	Peer educators trained	39	Number of people selected from the workers and the community and trained in peer education
10	Number of people reached by the peer educators	195	Number of people reached through peer education, BCC, CC by the peer educators
11	Anti – AIDS Committee established	30	Number functional Anti – AIDS Committees established in the area
12	Networking		Number of <u>Net workings established</u> with Nearby health center or hospital, Woreda HAPCO, Woreda administration, NGOs, and Others for collaboration and sustainability
	Nearby health centre or hospital	4	
	Woreda HAPCO	2	
	Woreda Admin	3	
	NGO	1	

6. COMPLETENESS AND ACCURACY OF THE DISCLOSED INFORMATION

6.1. CoST - Ethiopian Disclosure Requirements

The purpose of CoST disclosure process is to require procuring entities to make publicly available pertinent information about the project, purpose, scope, costs, contract information and execution of publicly-financed construction projects, in a timely and understandable manner so that the public can be informed and can interact with the relevant public authorities when appropriate.

Accordingly, CoST – Ethiopia has aligned the disclosure specification with its own systems, terminology and industry practices. This disclosure specification standard template is shown at annex.

6.2. Completeness against PE's Disclosed Information through Its Website

ERA has disclosed information of many projects on his website to variable details. The information is limited to bid of the project. The project Agulae – Shaigube - Berahile Design and Build Road Project is not included in the disclosure.

6.3. Completeness against the Disclosed Information of this Report

The completeness of the disclosed information is expressed in terms of data tabulated in the standard template shown at annex 2. Except the data of feasibility and quality, all the requirements of CoST – Ethiopia are filled according to the standard template. The quality can be fulfilled when supervision to the project site carried out, in comparison with the specifications and laboratory tests. Here no site visit is conducted yet.

The disclosed information is collected from the PE, Ethiopian Roads Authority (ERA) and reviewed, checked and verified for the completeness, accuracy and to be latest version of the data by cross checking the project document with one another. Discussion was conducted with the PE staff project Engineers to ascertain the accuracy of data collected.

7. ANALYSIS AND FINDINGS

7.1. The Procuring Entity (Ethiopian Roads Authority) Procedures

The project fund is from the Federal Democratic Republic Government of Ethiopia. Budget is allocated for annual basis which is equal to the volume of work schedule to be executed for one budget year. Ethiopian budget year ranges from the month July 8th to July 7th every year. The budget is prepared with procurement plan according to Article 22 of Proclamation 649/2009 and its Directive article 8 to 14. Annual budget and procurement plan of projects should be submitted to Ministry of Finance and Economic Development (MoFED) so that a budget to be approved by parliament for the next Ethiopian budget year.

The Federal Government of Ethiopia has Procurement and Property Administration Proclamation 649/2009 and Procurement Directive June / 2010 which describe the procedures of procurement to be applied by all public sectors.

According to the proclamation and directive, it is mandatory that public bodies shall undertake procurement of all items by open tendering unless there is a specific and good reason to use another method of procurement. Where there is a specific and good reason to use a method of procurement other than open tendering, public bodies should use the most appropriate method of procurement.

Ethiopian Roads Authority is one of the Federal Government public sectors. Its procurement is governed by these proclamation and directive above.

However, the scope of the proclamation does not apply to contracts that public body enters into with another public body for the provision of goods, works, consultancy or other services at cost; the Minister in consultation with the heads of the relevant public bodies may in the interest of national security, national defence, economy or /and efficiency has to decide.

7.2. Procurement Plan

ERA avails procurement plan of the projects on his web site for the Ethiopian Fiscal current year only. Procurement plan of the Agulae – Shaigube - Berahile Design and Build Road Project is not found.

Thus, its procurement plan should be prepared according to ***Federal Public Procurement Directive June/2010:***

Article 8. Preparation of procurement plan

1. Any Public Body and other entities accountable to such Public Body shall be required to prepare a procurement plan supported by action plan enabling them to execute in due time, the procurement necessary to implement their work program.

The one year procurement plan availed at the ERA web site is not supported by action plan.

7.3. Analysis of the Contract

7.3.1. Methods of Procurement

ERA requested permission to PPA to proceed the procurement through single source (direct negotiation by inviting Defense Construction and Engineering Enterprise (DCEE)) pursuant to the urgency to provide standard road for transportation of the mine product to the port of Djibouti by the end of the expected duration of two years for production as per the agreement between Ministry of Mine and Energy and the mine developer.

PPA, through its letter dated November 25, 2002 EFY declined to approve the request rather recommended to go for restricted bidding by inviting some other similar qualified bidders.

Following PPA's decline to approve, ERA again requested Ministry of Works and Urban Development through its letter dated December 05, 2002 EFY to go for direct negotiation by inviting Defense Construction and Engineering Enterprise (DCEE) pursuant to the urgency.

Ministry of Works and Urban Development (MWUD) , through its letter dated December 05, 2002 EFY approved to invite the Enterprise for the direct negotiation considering the urgency of the project by referring Article 51.1 (f) of the Procurement and Property Administration Proclamation 649/2009; then ERA accordingly invited DCEE to submit its offer.

ERA through its letter dated December 28, 2009 has invited Defense Construction and Engineering Enterprise to submit its offer and proposal for Agula –Shaigubi - Berahile Road Project to award the contract through direct negotiation.

This procurement procedure is evaluated versus the proclamation and directive and the findings are listed below:

i) Proclamation 649/2009, article 33/1 (Methods of Procurement) states:

1) Except as otherwise provided in this Proclamation, public bodies shall use open bidding as the preferred procedure of procurement.

- Hence, open tendering procurement procedure specified under this proclamation was modified to single source bidding for the reason “urgency” of provision of standard road for transportation of the mine product from Dalol to the port of Djibouti by the end of the expected duration of two years for production as per the agreement between Ministry of Mine and Energy and the mine developer.

ii) Was the actual Procurement duration shows urgency?

PPA, through its letter dated November 25, 2002 EFY declined to approve the request for the reason urgency rather recommended to go for restricted bidding by inviting some more qualified bidders.

However, Ministry of Works and Urban Development (MWUD) approved to invite the Enterprise for the direct negotiation considering the urgency of the project through its letter dated December 05, 2002 EFY by referring Article 51.1 (f) of the Procurement and Property Administration Proclamation 649/2009.

Article 51.1 (f) of the proclamation: Conditions for use of Direct Procurement states:

1) The public bodies may use direct procurement only where the following conditions are satisfied:

f) The head of the public body has determined that the need is one of pressing emergency in which delay would create seriously problems and therefore injurious to the performance of that public body.

At the time of procurement, ERA was under the Ministry of Works and Urban Development. According to the above article, the proclamation allows direct procurement when approved by head of the public body. According to the above Article, the approval by head of the public body is subjected to when the need is one of pressing emergency in which delay would create seriously problems and therefore injurious to the performance of that public body. The question lies weather the time elapsed for the procurement was not enough to apply for open tendering. Letter of

invitation was written on December 28, 2009; bid submission date was not specified. The contractor submitted its offer after 120 days (4 months) on 8 / 08 / 2002 EC. The contract was signed after 7.27 months (218 days) on August 3, 2010 since the contractor's invitation. Thus, the project was not procured in a sense of urgency.

The time elapsed for the procurement was enough to apply for open tendering as per the proclamation, so why for single source bidder?

7.3.2. Evaluation of the Bidders Proposal

The evaluation procedure is appreciated. TAC has compared the given rates with average rates of other projects, to check its reasonableness. Accordingly, TAC compared the bidder rates with Eight recently signed other projects. The total contractor's offer is reduced from 1,203,860,707.08 to 969,916,753.17 ETB and the cost per unit km is reduced from 15,736,741.27 to 12,678,650.37 ETB.

7.3.3. Progress of the Project

The contract was signed after 19 months (583 days) on August 3, 2010 since the contractor's invitation date which was on 28/12/2009.

The project is still ongoing. The Contract period was 1095 Cal days (3 years) including mobilization period. Up to the end of December 2014, 1552 Calendar days (nearly 4.5 years) or 142.64% of the original Contract time elapsed. Extra 457 days elapsed. The percentage accomplished up to the end of December 2014 is 92.95%. A gap of -49.69% (142.64% - 92.95 %.) is encountered between the time elapsed and the achieved progress.

It is usual to encounter excessive delay for projects procured under unfair competition. Also, it is hardly possible to expect on time completion for projects which are procured through unfair competition.

7.4. Consultancy Procurement Procedure

A construction supervision consultancy service was procured by short listing 6 consulting firms among those which have submitted Expression of Interest as per ERA's announcement. Then, the 6 firms were invited for technical and financial proposal. The selection was two stage evaluations, technical and financial that shares 80% and 20% respectively.

According to the directive article 22 / 1 which is about Invitation for Expression of Interest states:

A Public Body shall invite expression of interest for procurement of consultancy service the estimated value of which exceeds 300,000 birr.

Thus, the invitation for Expression of Interest satisfies this directive article since the value of the consultant is ETB 10,020,927.50 (ten million Twenty Thousands Nine Hundred Twenty Seven and Fifty cents only) inclusive of 15% VAT and all other local taxes *which exceed 300,000 birr.*

7.5. Variations

Supplementary Agreement No. 3 for the Consultancy Service has no signed date to evaluate the directive article 25.2 (b) which states “job order for the additional requirements must be issued before the expiration of the initial contract or within six months after the expiration of the initial contract”.

The consultancy service original time period (30 months) is doubled to 60 months due to the Supplementary Agreements No. 1, 2 & 3. The original completion date shifted from March 30, 2013 to September 30, 2015.

Additional incurred amount is ETB 2,314,231.13 (ETB: Two Million Three Hundred Fourteen Thousands Two Hundred Thirty One and 13/100 only) including VAT.

Thus, the original contract and the Supplementary Agreements No. 1, 2 and 3 are amended as follows:

- The period of the expiration of the service contract became sixty (60) months + one year defect liability period of the works contract.
- The revised total contract price became ETB 14,774,994.48 (ETB Fourteen Million Seven Hundred Seventy Four Thousand Nine Hundred Ninety Four and 35/100 only) including 15% VAT.

According to the procurement directive 25.2 (a):

25.2) Pursuant to article 51 (d) and (e) of the proclamation, public bodies may procure from the same supplier, additional requirements of goods, works, consultancy or other services of the same kind as those they have procured from that supplier under a previous contract in accordance with the following stipulations, if there is any advantage to be gained from procuring such additional requirements from that same supplier.

a) The volume of the additional requirements of goods, works or consultancy assignment may not exceed 25% of the volume of such goods, works or consultancy assignment under the initial contract;

b) Job order for the additional requirements must be issued before the expiration of the initial contract or within six months after the expiration of the initial contract;

However, the parentage of additional amount due to the supplementary agreements of the consultancy service is $[(14,774,994.48 - 10,020,927.50) * 100] / (10,020,927.50) = 47.44\%$ which exceed 25% of the volume of the initial contract. ERA has got approval from PPA to extend the contract.

7.6. Complaint Lodged

DANA and Associate PLC Engineering Consultant in Joint Venture with IDCON Infrastructure Development Consultant PLC and Associate Engineers (AEC) complained rejection of their proposal due to their tax clearance certificate was valid up to July 7, 2009 (Sene 30, 2002 EC).

Their complaint justification was as follows, according to Ethiopian Revenue and Custom Authority Annual Taxes Payment and Clearances collection duration ranges up to Tikimt 30 EC (November 9) while the Trade License renewal duration ranges up Tahisas 30 (January 9) every year. For bid submission dates that between the date range Hamle 1 to Tikmet 30 EC (from July 09 to November 9), as the case also applies for this project, ERA's request for tax clearance for the new EFY does not overlay with this Ethiopian Revenue and Custom Authority.

ERA has not accepted the consultants complaints; rather considered the complaint and gave final chance to submit a tax clearance certificate within three days that can be valid at proposal submission date which was October 20, 2009.

However, Associate Engineers (AEC) proposal rejected from financial evaluation due to the case.

But, it will be still a question for the dates at the beginning of Hamle (July) since no one can able to finalize to pay the tax and the clearance at this early stage of Ethiopian Fiscal Year?

8. CONCLUSION AND RECOMENDATION

8.1. Conclusion

Agulae – Shaigube - Berahile DB road project is about 74.92km and it begins from Agulae town that is 37 km away from Mekele along the main road connection Mekele and Wukro and goes south west direction pass Shaigube town and ends at Berahile town.

Letter of invitation was written on December 28, 2009; bid submission date was not specified. The contractor submitted its offer after 120 days (4 months) on 8 / 08 / 2002 EC. The contract was signed after 7.27 months (218 days) on August 3, 2010 since the contractor's invitation. Thus, the project was not procured in a sense of urgency.

The time elapsed for the procurement was enough to apply for open tendering as per the proclamation, so why for single source bidder?

The project is still ongoing after 142.64% of the original Contract time elapsed. The Contract period was 1095 Cal days (3 years) including mobilization period. The time elapsed up to the end of December 2014 is 1552 Calendar days (nearly 4.5 years). Extra 457 days elapsed. The percentage accomplished is 92.95%. A gap of -49.69% (142.64% - 92.95 %) is encountered between the time elapsed and the achieved progress.

The evaluation procedure is found to be procedural.

The project was not procured in a sense of urgency as explained on the analysis chapter.

The procurement is unfair in terms of competition.

The delay has incurred additional budget due to escalation and unable to use the road or the economic benefit of the country.

The delay of the work has incurred additional 47.44% of amount to the Consultancy service which exceeds 25% of the volume of the initial contract; ERA has got approval from PPA to this extra amount which is quite procedural.

The main concerns for lack of value for money are:-

- unfair competition and
- delay of the accomplishment.

Delayance of construction projects is country wide problem. It is hardly possible to expect on time completion for construction projects especially which are procured through unfair competition. For the case of Agulae – Shaigube - Berahile DB road project, the delays are justified and time extension

granted to the Contractor.

8.2. Recommendation

The following recommendations are drawn from Agulae – Shaigube - Berahile DB road project assessment.

- The PE has to work to avoid or minimize further slippage of project duration.
- Documents and records should be availed and accessible according to Article 23 of Proclamation 649/2009.
- CoST Ethiopia is required to have constant Air time through Television and Radio Media to aware the public.
- MSG shall create further broad understanding of CoST principles and purposes to the PEs, and stakeholders in order to achieve Completeness of Disclosed Information through PE’s Website and to achieve the objective of CoST.
- Almost all projects reviewed by CoST Ethiopia shows procurement or/and delay problems. Procurement and delay of construction projects are becoming country wide problem. Thus, there has to be some body or organization that will be responsible to watch, minimize and alleviate the problem.
- CoST Ethiopia shall create further broad understanding of principles, purposes and objective to the public constantly:

• *Through constant Air Time through Television and Radio Media and to aware the public.*

• *On the newspaper s.*

• *Website and to achieve the objective of CoST.*



***ANNEX 1: DISCLOSURE OF PROCUREMENT & CONTRACT
INFORMATION (44 ITEMS)-FORMAT***



PHASE	ITEMS OF DISCLOSURE	CONSTRUCTION	DESIGN	SUPERVISION
PROCUREMENT INFORMATION (30 ITEMS)	Date of disclosure			
	Contract title			
	Location			
	Procuring entity			
	Source for further information			
	Date of procurement notice			
	Floating period of the procurement notice			
	Media used for procurement notice			
	Method of procurement			
	Type of Procurement			
	Procurement procedure			
	Evaluation criteria			
	Type of contract & project delivery method			
	Type & Amount of bid security			
	Content of any complaint lodged			
	Engineer's estimate			
	Date of bid opening			
	Number of bidders: Participated, rejected and declined to submit			
	Awarded firm/contracting firm			
	Date of contract award			
	Award price/original contract price			
	Unit Contract price (price/km, price / sq. meter)			
	Contract security type and amount			
	Date of contract signing			
	Contract scope			
	Description of contract & Contract components			
	Contract administration entity			
	Contract duration			
Contract start date				
Intended completion date				



CONTRACT IMPLEMENTATION & COMPLETION(14 ITEMS)	Contract status (ongoing (% progress), terminated, completed)			
	completion date (Revised, projected, Actual)			
	Changes to contract duration with Reason			
	Amount of Liquidated Damage if applied (Penalty for delay)			
	Contract price (Revised, projected, Actual)			
	Changes to contract price with reason			
	Scope at completion			
	Changes to contract scope with reason			
	Total payment effected			
	warranty type and description			
	Details of Termination if applied			
	Safety Measures (accident & death)			
	Quality of work			
	Disputed issues & Award details			



DISCLOSURE OF PROJECT INFORMATION (26 ITEMS)

ANNEX 2: DISCLOSURE OF PROJECT INFORMATION (26 ITEMS)-FORMAT



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CONSTRUCTION SECTOR TRANSPARENCY INITIATIVE-ETHIOPIA
ስልክ Tel: +251115509241 ፋክስ Fax: +251115509239 ፖስታ ሳኞን ቁ. P.O.Box 34798/99 አ.አ፣ኢትዮጵያ A.A, Ethiopia

PRELIMINARY PROJECT INFORMATION (18 ITEMS)	Date of disclosure	
	Project owner	
	Project name	
	Sector, sub-sector	
	Source for further information	
	Project Location	
	Purpose	
	Project description	
	Original Project Scope	
	Project Components	
	Environmental impact	
	land & settlement impact	
	Estimated budget of the project with breakdown of components	
	Funding sources	
	Project budget approval date	
	Project start date (planned, actual)	
Planned/ Original duration for completing the whole project		
Planned/Original cost of the project		
PROJECT INFORMATION AT COMPLETION (8 ITEMS)	Cost of the project at completion	
	changes of project cost with reason	
	Project completion date (Revised, projected, actual)	
	Actual duration for completing the whole project	
	changes of project duration with reason	
	Project Scope at completion	
	changes of project scope with reason	
	Reference to documents for disclosure upon request (reactive disclosure)	



ANNEX 3: MATERIAL PROJECT INFORMATION (MPI)

DISCLOSURE OF PROCURMENT AND CONTRACT INFORMATION (44 ITEMS)				
PHASE	ITEMS OF DISCLOSURE	CONSTRUCTION	DESIGN	SUPERVISION
PROCURMENT INFORMATION (30 ITEMS)	Date of disclosure			
	Contract title	Agulae – Shaigbi – Berahile Design and Build Road Project		Consultancy Services for the Construction Supervision of Abala – Shaigube and Agulae - Shaigubae – Berahile - Dalol Design and Build Road Project, Contract 2: Agulae - Shaigubae – Berahile Road Project
	Location	Agulae – Shaigube - Berahile road is located in the northern part of Ethiopian in Tigray and Afar regional states. It stretches from Agulae to Berahile and is part of the road that connects Dallol depression with the main highway of Mekelle-Wukro at Agula Town. It begins/starts at Agulae town which is 817 Km from Addis Ababa and 37 km away from Mekele along the main road connecting Mekele and Wukro.		
	Procuring entity	Ethiopian Roads Authority (ERA)		
	Source for further information	Design and Build Directorate: Ato Girma Werku- Acting Director, Temesgen Ashenafi - Project Engineer, Moges Tibebu- Senior Engineer Engineering Procurement Directorate: Firew Bekele- Team Leader and Hulu Alemineh		
	Date of procurement notice /Invitation date	Invitation date December 28, 2009		EoI advertisement on July 11 and 12, 2009 and RFP on SEPT 09, 2009
	Floating period of the procurement notice	Not specified in the invitation letter; however, the contractor submitted its offer after 120 days on 8 / 08 / 2002 EC.		EoI advertisement floating period was for 16 days, on 27 th of July, 2009 while RFP floating period was for 30 days, on 8 th of OCT, 2009 extended to October 20, 2009
	Media used for procurement notice	ERA Invitation letter		Ethiopian Herald Newspaper for EoI advertisement and ERA letter for the RFP
	Method of procurement	Single contractor direct negotiation; (ERA’s Permission request rejected by PPA but permitted by MUDC)		Procurement made by means of request for EoI and RFP
	Type of procurement	NCB		ICB
	Procurement procedure	Single contractor directly invited and then negotiated on the proposal and offer of the contractor.		Two stage bidding (Technical 80% and financial 20%)



Evaluation criteria	Negotiating a single contractor	QCBS
Type of contract and project delivery method	Design and Build Road Project	Time based (monthly reimbursable and remuneration)
Type and amount of bid security	Not applicable since one contractor was directly invited and negotiated	Not applicable
Content of any complaint lodged	Not available since it was single contractor invitation	RENARDET Consulting Engineers had submitted a decline letter not to submit a proposal mentioning that the subject of the RFP is different than the one of the expression of interest and possibility not to express part of the price proposal in foreign currency. Associate Engineers complained ERA's rejection proposal from financial evaluation due to Tax clearance case (Explained inside the report).
Engineer's estimate	Data not found	Not available
Date of bid opening	on 8 / 08 / 2002 EC, after 120 days from invitation	EoI on 27 th of July 2009; RFP on OCT 20, 2009
Number of bidders: participated, rejected and declined to submit	Only 1 contractor invited	6 participant invited, 4 submitted for the RFP, 1 rejected from financial evaluation
Award firm/ contracting firm	Defence Construction Enterprise (DCE)	Eng. Zewdie Eskinder & Co. Plc. Consulting Engineers
Date of contract award / Acceptance date	July 23, 2010	Information not found
Award price/original contract price	ETB 969,916,753.17 (including VAT) assuming project length was 76.5 km; revised project length is 74.92 km	ETB 10,029,927.50 (including VAT)
Unit contract price (price /km, price /m ²)	ETB 12,762,064.40 (including VAT)	Cost per year 4,008,371.00 ETB including VAT and local taxes; or 334,030.92 ETB/Month
Contract security type and amount	Provided performance bonds (conditional) from Ethiopian Insurance Company with BOND. NO. NW/2BOBP/6624/10 for the period August 03, 2010 to August 02, 2013 and extended to August, 2015; with an amount in the amount of 10% of the contract price, i.e. ETB 96,991,675.32	Professional indemnity insurance from NILE INSURANCE COMPANY with POLICY NO P/05/030/04/4002/10/3; the Amount is 1,000,000.00ETB; Date submitted 2/09/2010 to be renewed Annually.



	Date of contract signing	August 3, 2010	September 2, 2010
	Contract scope	The project length is 76.5km; revised project length is 74.92 km; it includes constructing of DS4 asphalt concrete standard, bridges, culverts, retaining walls, pavement marking, and erecting traffic sign.	Consultancy services for the Construction Supervision of the project
	Description of contract and contract components	<ul style="list-style-type: none"> • Designing the roadway and any necessary structures • Upgrading the existing as well as constructing new alignment section of the route to DS4, Asphalt Concrete standard as per the final contract agreement • Constructing Bridges and culverts or upgrading some structures to meet the required standard • Constructing Paved Roadways • Constructing Retaining Walls • Pavement Markings and Erecting Traffic Signs • And other necessary works to meet the employer's requirement • HIV/AIDS and Environment alleviation measures 	
	Contract administration entity	Eng. Zewdie Eskinder & Co. Plc. Consulting Engineers	
	Contract duration	1095 Cal days (3 years) including mobilization period plus 365 Calendar days of defect liability period	30 Months from the Date of Commencement of Service
	Contract start / commencement date	September 30, 2010	September 30, 2010
	Intended completion date	September 29, 2013	March 30, 2013
	CONTRACT IMPLEMENTATION & COMPLETION (14)	Contract status	Up to the end of December 2014, 1552 Calendar days (nearly 4.5 years) or 142.64% of the original Contract time elapsed. Extra 457 days elapsed.
Completion date projected		10 th of May 2015	
Changes to contract duration with reason		Original completion date extended from September 30 th 2013 to 10 th May, 2015; 588 days of EoT approved.	The consultancy service original time period (30 months) is doubled to 60 months due to the Supplementary Agreements No. 1, 2 & 3. Original completion date shifted from March 30, 2013 to September 30, 2015.
Amount of liquidate damage		No liquidate damage	No liquidate damage



Contract price including issued variations	ETB 969,916,753.17 (including VAT); no price variation issued.	ETB 14,774,994.48 (ETB Fourteen Million Seven Hundred Seventy Four Thousand Nine Hundred Ninety Four and 35/100 only) including 15% VAT
Changes to contract price with reason	Price Adjustment = 278,350,000.43 ETB = 37.7 % of IPC	ETB 2,314,231.13 (ETB Two Million Three Hundred Fourteen Thousands Two Hundred Thirty One and 13/100 only) including VAT
Scope at completion	Not completed yet	Not completed yet
Changes to contract scope with reason	Contract scope not changed	Contract scope not changed
Total payment effected	1,131,594,917.90 ETB with VAT	ETB 2,767,944.76 WoT VAT
Warranty type and description	No Warranty	No Warranty
Details of Termination if applied	Not applied yet	Not applied yet
Safety measures (accident & death)	Data not found/ not reported	
Quality of work	A lot of quality assurance tests are reported; but no field inspection conducted	
Disputed issues & award details	No dispute that needs special attention	



DISCLOSURE OF PROJECT INFORMATION (26 ITEMS)		
PRELIMINARY PROJECT INFORMATION (18 ITEMS)	Date of disclosure	
	Project owner	Ethiopian Roads Authority (ERA)
	Project name	Agulae – Shaigbi – Berahile Design and Build Road Project
	Sector, sub-sector	Road
	Source for further information	Design and Build Directorate:- Ato Girma Werku- Acting Director, Temesgen Ashenafi - Project Engineer, Moges Tibebu- Senior Engineer Engineering Procurement Directorate: Firew Bekele- Team Leader and Hulu Alemineh
	Project Location	Agulae – Shaigube - Berahile road is located in the northern part of Ethiopian in Tigray and Afar regional states. It stretches from Agulae to Berahile and is part of the road that connects Dallol depression with the main highway of Mekelle-Wukro at Agula Town. It begins/starts at Agulae town which is 817 Km from Addis Ababa and 37 km away from Mekele along the main road connecting Mekele and Wukro.
	Purpose	<ul style="list-style-type: none"> • It will be an access for the export of huge mineral resource like potash, manganese and salt production and export through the Djibouti port. By now the potash developers are SIANIK-Indian, ALLANA & NOVIA-Canadian, BHP-Australian and G&B-American companies. • It will be an access for the tourists from all over the world that visit the hot natural erupting springs and the Dalol depression itself. • It will provide an access for local development works
Project description	Actual project length is about 74.92 km ; construction of the roadway to DS4 Asphalt Concrete standard, bridges, culverts, retaining walls, pavement marking and erecting traffic sign	



PROJECT INFORM ATION	Original project scope	<ul style="list-style-type: none"> • Design and Build road to DS4 Asphalt Concrete Standard • Designing the roadway and any necessary structures • Upgrading the existing as well as constructing new alignment section of the route to DS4, Asphalt Concrete standard • Constructing Bridges and culverts or upgrading some structures to meet the required standard • Constructing Retaining Walls • Pavement Markings and Erecting Traffic Signs
	Project components	<ul style="list-style-type: none"> • The route DS4, Asphalt Concrete standards, • Bridges and culvert, • Retaining walls, • Pavement marking, • Erecting traffic sign, • HIV/AIDS and Environment alleviation measures
	Environmental impact	• 2448 condom distributed 500 IEC material distributed and VCT service for 20 people
	Land and settlement impact	Quantified Data not found
	Estimated budget of the project with breakdown of components	Feasibility report not found
	Funding sources	The Federal Democratic Republic of Ethiopian
	Project budget approval date	Budget is approved once a year in parliament
	Project start date (planned, actual)	Commencement date was September 30, 2010; with 90 days mobilization activities. <u>Le</u> The permanent works start date was on December 1, 2010. However, the Contractor started permanent work activities on February 11, 2011.
	Planned /Original duration for completing the whole project	1095 Calendar days plus 365 Calendar days of defect liability period
	Planned /Original cost of the project	ETB 969,916,753.17 (including VAT) assuming 74.92(revised) km project length
Cost of the project up-to-date	ETB 1,131,594,917.90 (including VAT) and escalation	
Changes of project cost with reason	none	
Project completion date (Revised, projected, actual)	Revised completion date: May 10, 2015	



Actual duration for completing the whole project	Not completed
Changes of project duration with reason	588 Cal days
Project scope to date	Not completed
Changes of project scope with reason	No changes
Reference to documents for disclosure upon request (reactive disclosure)	ERA

TOTAL NUMBER OF DISCLOSURE ITEMS = 70